

(C) The Federal agency may be responsible for services such as janitorial, grounds keeping, utilities, capital maintenance, and other services normally provided by a landlord. Acquisition of such services by the Federal agency is to be accomplished through the use of Federal Acquisition Regulation procedures or otherwise in accordance with applicable statutory and regulatory requirements.

(4) The lease shall include a provision prohibiting the LRA from transferring fee title to another entity during the term of the lease, other than one of the political jurisdictions that comprise the LRA, without the written consent of the Federal agency occupying the leased property.

(5)(i) The lease shall include an option specifying that if the Federal agency no longer needs the property before the expiration of the term of the lease, the remainder of the lease term may be satisfied by the same or another Federal agency that needs property for a similar use. (“Similar use” is a use that is comparable to or essentially the same as the use under the original lease, as determined by the Secretary concerned.)

(ii)(B) If the tenant is a DoD Component, before notifying GSA of the availability of the leasehold, it shall determine whether any other DoD Component has a requirement for the leasehold; in doing so, it shall consult with the LRA. If another DoD Component has a requirement for the leasehold, that DoD Component shall be allowed to assume the leasehold for the remainder of its term. If no DoD Component has a requirement for the leasehold, the tenant shall notify GSA in accordance with paragraph (h)(5)(ii)(A) of this section.

(A) The Federal tenant shall notify the GSA of the availability of the leasehold. GSA will then decide whether to exercise this option after consulting with the LRA or other property owner. The GSA shall have 60 days from the date of notification in which to identify a Federal agency to serve out the term of the lease and to notify the LRA or other property owner of the new tenant. If the GSA does not notify the LRA or other property owner of a new tenant within such 60 days, the

leasehold shall terminate on a date agreed to by the Federal tenant and the LRA or other property owner.

(B) If the GSA decides not to exercise this option after consulting with the LRA or other property owner, the leasehold shall terminate on a date agreed to by the Federal tenant and the LRA or other property owner.

(6) The terms of the lease shall provide that the Federal agency may repair and improve the property at its expense after consultation with the LRA.

(i) Property subject to such a leasing arrangement shall be conveyed in accordance with the existing EDC procedures. The LRA shall submit the following in addition to the application requirements outlined in §174.9(e) of this part:

(1) A description of the parcel or parcels the LRA proposes to have transferred to it and then to lease to a Federal agency;

(2) A written statement signed by an authorized representative of the Federal agency that it agrees to accept the lease of the property; and,

(3) A statement explaining why such a leasing arrangement is necessary for the long-term economic redevelopment of the installation property.

(j) The exact amount of consideration, or the formula to be used to determine that consideration, as well as the schedule for payment of consideration must be agreed upon in writing before transfer pursuant to this section.

### Subpart E—Personal Property

#### § 174.13 Personal property.

(a) This section outlines procedures to allow transfer of personal property to the LRA for the effective implementation of a redevelopment plan. Personal property does not include fixtures.

(b) The Secretary concerned, supported by DoD Components with personal property on the installation, will take an inventory of the personal property, including its condition, within 6 months after the date of approval of closure or realignment. This inventory will be limited to the personal property

located on the real property to be disposed of by the Military Department. The inventory will be taken in consultation with LRA officials. If there is no LRA, the Secretary concerned shall consult with the local government in whose jurisdiction the installation is wholly located, or a local government agency or a State government agency designated for that purpose by the Governor of the State. Based on these consultations, the installation commander will determine the items or category of items that have the potential to enhance the reuse of the real property.

(c) Except for property subject to the exemptions in paragraph (e) of this section, personal property with potential to enhance the reuse of the real property shall remain at an installation being closed or realigned until the earlier of:

(1) One week after the Secretary concerned receives the redevelopment plan;

(2) The date notified by the LRA that there will be no redevelopment plan;

(3) 24 months after the date of approval of the closure or realignment of the installation; or

(4) 90 days before the date of the closure or realignment of the installation.

(d) National Guard property under the control of the United States Property and Fiscal Officer is subject to inventory and may be made available for redevelopment planning purposes.

(e) Personal property may be removed upon approval of the installation commander or higher authority, as prescribed by the Secretary concerned, after the inventory required in paragraph (b) of this section has been sent to the LRA, when:

(1) The property is required for the operation of a unit, function, component, weapon, or weapons system at another installation;

(2) The property is uniquely military in character and is likely to have no civilian use (other than use for its material content or as a source of commonly used components). This property consists of classified items; nuclear, biological, and chemical items; weapons and munitions; museum property or items of significant historic value that are maintained or displayed on loan; and similar military items;

(3) The property is not required for the reutilization or redevelopment of the installation (as jointly determined by the Secretary concerned and the LRA);

(4) The property is stored at the installation for purposes of distribution (including spare parts or stock items) or redistribution and sale (DoD excess/surplus personal property). This property includes materials or parts used in a manufacturing or repair function but does not include maintenance spares for equipment to be left in place;

(5) The property meets known requirements of an authorized program of a DoD Component or another Federal agency that would have to purchase similar items, and is the subject of a written request by the head of the DoD Component or other Federal agency. If the authority to acquire personal property has been delegated, a copy of the delegation must accompany the request. (For purposes of this paragraph, "purchase" means the DoD Component or Federal agency intends to obligate funds in the current quarter or next six fiscal quarters.) The DoD Component or Federal agency must pay packing, crating, handling, and transportation charges associated with such transfers of personal property;

(6) The property belongs to a non-appropriated fund instrumentality (NAFI) of the Department of Defense; separate arrangements for communities to purchase such property are possible and may be negotiated with the Secretary concerned;

(7) The property is not owned by the Department of Defense, *i.e.*, it is owned by a Federal agency outside the Department of Defense or by non-Federal persons or entities such as a State, a private corporation, or an individual; or,

(8) The property is needed elsewhere in the national security interest of the United States as determined by the Secretary concerned. This authority may not be re-delegated below the level of an Assistant Secretary. In exercising this authority, the Secretary may transfer the property to any DoD Component or other Federal agency.

(f) Personal property not subject to the exemptions in paragraph (e) of this section may be conveyed to the LRA as

part of an EDC for the real property if the Secretary concerned makes a finding that the personal property is necessary for the effective implementation of the redevelopment plan.

(g) Personal property may also be conveyed separately to the LRA under an EDC for personal property. This type of EDC can be made if the Secretary concerned determines that the transfer is necessary for the effective implementation of a redevelopment plan with respect to the installation. Such determination shall be based on the LRA's timely application for the property, which should be submitted to the Secretary upon completion of the redevelopment plan. The application must include the LRA's agreement to accept the personal property after a reasonable period and will otherwise comply with the requirements of §§174.9 and 174.10 of this part. The transfer will be subject to reasonable limitations and conditions on use.

(h) Personal property that is not needed by a DoD Component or a tenant Federal agency or conveyed to an LRA (or a state or local jurisdiction in lieu of an LRA), or conveyed as related personal property together with the real property, will be transferred to the Defense Reutilization and Marketing Office for disposal in accordance with applicable regulations.

(i) Useful personal property not needed by the Federal Government and not qualifying for transfer to the LRA under an EDC may be donated to the community or LRA through the appropriate State Agency for Surplus Property (SASP) under 41 CFR part 102-37 surplus program guidelines. Personal property donated under this procedure must meet the usage and control requirements of the applicable SASP.

### **Subpart F—Maintenance and Repair**

#### **§ 174.14 Maintenance and repair.**

(a) Facilities and equipment located on installations being closed are often important to the eventual reuse of the installation. This section provides maintenance procedures to preserve and protect those facilities and items of equipment needed for reuse in an ec-

onomical manner that facilitates installation redevelopment.

(b) In order to ensure quick reuse, the Secretary concerned, in consultation with the LRA, will establish initial levels of maintenance and repair needed to aid redevelopment and to protect the property for the time periods set forth in paragraph (c) of this section. Where agreement between the Secretary and the LRA cannot be reached, the Secretary will determine the required levels of maintenance and repair and its duration. In no case will these initial levels of maintenance:

(1) Exceed the standard of maintenance and repair in effect on the date of approval of closure or realignment;

(2) Be less than maintenance and repair required to be consistent with Federal Government standards for excess and surplus properties as provided in the Federal Management Regulations of the GSA, 41 CFR part 102;

(3) Be less than the minimum levels required to support the use of such facilities or equipment for nonmilitary purposes; or,

(4) Require any property improvements, including construction, alteration, or demolition, except when the demolition is required for health, safety, or environmental purposes, or is economically justified in lieu of continued maintenance expenditures.

(c) Unless the Secretary concerned determines that it is in the national security interest of the United States, the levels of maintenance and repair specified in paragraph (b) of this section shall not be changed until the earlier of:

(1) One week after the Secretary concerned receives the redevelopment plan;

(2) The date notified by the LRA that there will be no redevelopment plan;

(3) 24 months after the date of approval of the closure or realignment of the installation; or

(4) 90 days before the date of the closure or realignment of the installation.

(d) The Secretary concerned may extend the time period for the initial levels of maintenance and repair for property still under the Secretary's control for an additional period, if the Secretary determines that the LRA is actively implementing its redevelopment